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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,176	01/25/2002	Masamoto Morita	5905.0032-01	9145

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EXAMINER

NGUYEN, BINH AN DUC

ART UNIT PAPER NUMBER

3713

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/055,176

Applicant(s)

MORITA ET AL.

Examiner

Binh-An D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-16 and 18-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-16 and 18-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/947,024.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The Amendment an Information Disclosure Statement filed in Papers No. 2 and 3, respectively, March 16, 2002 have been received. According to the Amendment, claims 3 and 17 have been canceled; claim 29 has been amended; and new claims 30-35 have been added. Currently, claims 1, 2, 4-16, and 18-35 are pending in the application. Acknowledgment has been made.

2. Claims 1, 2, 4-16, and 18-35 are objected to because of the following informalities:

Claims 1, 2, 4, 9, 11, 12, 14, 15, 16, 18, 23, 25, 26, and 28 are unclear since each claim does not include a term such as "comprising" to define where the preamble ends and the body of the claim starts.

In claim 24, the phrase "characterised in that" (lines 1-2) should be changed to "further comprises".

Further, in claims 1 (line 2), 2 (line 2), 4 (line 2), 9 (line 3), 11 (line 1), 12 (line 2), 14 (line 2), 15 (line 2), 16 (line 2), 18 (line 2), 23 (line 3), 25 (line 1), 26 (line 2), and 28 (line 1), the semicolons (;) should be replaced with colons (:).

Appropriate correction is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2, 4-16, and 18-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 2, 4-16, and 18-28 are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

In claims 2, 10 and 24, the recited phrases of "the final stage" and "the initial stage" (claim 2, line 7 and 10, respectively); "the said number of points scored" (claim 10, lines 6-7); and "the step, which presents said options" (claim 24, line 4), lack antecedent basis.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1, 2, 4-16, and 18-35, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al. (5,265,888) in view of Yamato et al. (5,680,534).

Yamamoto et al. teaches a game processing apparatus and method comprising processing circuits for processing a game on a basis of operating signals supplied by input devices; processing circuits calculate the number of points; interrelating playing areas; changing the processing of the game in playing areas; processing circuits determine scores based on the location from which blocks disappear; processing circuits change the degree of difficulty of the game in accordance with character; processing circuits generate image data for displaying at least two playing areas, which are manipulated on the basis of plurality of operating signal inputted by the players and each of the player operates one respective playing area (Figs. 11(a)-11(f)); playing area moving relative to background (as game character moves up/down or right/left); and setting bouncing characteristic of game character (Fig. 16). Yamamoto et al. further teaches a machine-readable medium which records a program for executing game processing method on a computer (game cartridge 20, Fig. 2A). See also Figures 1A-11F. Yamamoto et al., however, do not explicitly teach changing background image display (claims 4, 18, and 19).

Yamato et al. teaches changing background image display. See Figures 5-18, and column 19.

The Examiner hereby takes an official notice that it is notoriously well-known in the art to declare victory (by inputting signals) (claims 1 and 15), or making judgment as

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to whether or not a final stage of the game is over (claims 2 and 16) prior to final determination by the game processor, e.g., electronic battleship game, moreover, an automatic validation of a game winner at the end of a game is well known in video game industry. Also, regarding changing color tone characteristic of an image (claims 7, 8, 21 and 22), beside its well-known practice, this is a matter of design choice on how to manipulate the color tone of a certain background image. Further, determining scores based on the location on the display area from which blocks disappeared (claims 11 and 25) and different attack patterns are notoriously well known. Furthermore, the limitation of a CPU acting as one of game players is well known in the art, e.g., single player playing against the computer.

Note that, the limitation of moving playing areas, relative to the background, in any desired direction such as bouncing (claims 6 and 20) is obvious to a person of ordinary skill in the art to set a desired scrolling or moving pattern of the background or moving pattern of a game character, to create a bouncing effect of an elastic body.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to provide Yamamoto et al.'s video game with the changing background image techniques, as taught by Yamato et al., to provide more realistic interactive affects to a video game thus attract more game players and increase profits.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

BN


Teresa Walberg
Supervisory Patent Examiner
Group 3700